



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,440	02/05/2002	John K. Newton	NEWT-001	7397

65215 7590 03/22/2007
NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO, ND 58103

EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
----------	--------------

3622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/067,440

Applicant(s)

NEWTON ET AL.

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-19 have been examined. Application 10/067,440 (METHOD TO MANAGE MARKETING AND SALES DATA OF E-COMMERCE CLIENTS) has a filing date 02/05/2002.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 6 recites "training the new member through a marketing service". Applicant's specification does not explain what said training consists of and why a new member has to be trained.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites in step b, the limitation "the viewing activity" and in step b, the limitation "the contact information". Claim 5 recites "the team members". Claim 6 recites in step d, "the website browser personal information", in step e, "the website user experience", in step f, "the web site user". Claim 15 recites "the down-line member". Claim 19 recites "the Contact Manager program". There is insufficient antecedent basis for these limitations in the claims.

Claims 6 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 recites "the website browser personal information and the website user experience". Claim 8 recites "website user's name, email address". Said limitations are indefinite because it seems to say that an Internet browser or a website is a person, when it is a user of said website or browser which is the one that has personal information or experience. Claim 6 recites "recruiting up-line members" and "down-line members". For purpose of art rejection, said limitation would be interpreted as recruiting referring partners.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Angles (US 5,933,811) in view of Kolke (US 2002/0147625).

Claim 1, Angles teaches:

A method for a marketing service to generate and manage sales and marketing information for service members comprising:

- (a) obtaining personal information of a guest (see col 17, lines 5-10);
- (b) tracking the viewing activity of the guest considering an offer for goods and/or services (see col 16, lines 1-10; col 20, lines 10-30);

(c) creating a neuro dynamic profile particular to each guest (see col 16, lines 1-10; col 20, lines 10-35);

(d) combining the personal information, viewing activity and neuro dynamic profile to form a contact report (see col 20, lines 10-30);

(e) storing the contact report under a contact management program file (see col 20, lines 1-30);

Angles fails to teach:

(f) moving the contact information between service members; and (g) using the contact information by the service members. However, Kolke teaches a system that creates a referral community where the kinds of potential customers of the particular initial referral partner are entered in a referral database by listing a demographic profile of desirables referrals and where the demographic profile contains various categories useful for describing the kinds of potential customers that are desirable referrals for the initial partner (see Kolke paragraphs 6 and 43). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Angles would be motivated to use the Kolke's referral system in order that registered members of an advertiser's provider send referral's emails to potential members of said advertiser's provider in view that said potential members would much rather purchase goods and services from registered members who they already know and trust.

Claim 2, Angles teaches:

A method as claimed in claim 1 where said neuro dynamic profile is characterized by personality type, communication style, motivation strategy and decision strategy (see col 16, lines 1-15; col 20, lines 10-30).

Claim 3, Angles teaches:

A method as claimed in claim 1 where said storing comprises storing said viewing activity and said neuro dynamic profile as a guest file under the Contact Manager governed by the marketing service (see col 20, lines 10-30).

Claim 4, Angles teaches:

A method as claimed in claim 1 where said moving the information comprises data management provided by the Teamwork Communication System governed by the marketing service (see col 20, lines 25-35).

Claim 5, Angles fails to teach:

A method as claimed in claim 1 where said using the information by the service members comprises evaluation of the contact report by the team members to form a guest response that is psychologically effective to encourage guest activity or sales. However, Kolke teaches a system that creates a referral community where the kinds of potential customers of the particular initial referral partner are entered in a referral database by listing a demographic profile of desirables referrals and where the demographic profile contains various categories useful for describing the kinds of potential customers that are desirable referrals for the initial partner (see Kolke paragraphs 6 and 43). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Angles would be

Art Unit: 3622

motivated to use the Kolke's referral system in order that registered members of an advertiser's provider send referral's emails to potential members of said advertiser's provider in view that said potential members would much rather purchase goods and services from registered members who they already know and trust.

Claim 6, Angles teaches:

A method for a marketing network service to generate and manage sales and marketing information for service members comprising:

(a) subscribing to a marketing network service to be a new member communicatively linked to the recruiting up-line team member(s) (see col 17, lines 5-10);

(c) bringing business to a Web site presenting goods and/or services on the marketing network service computing platform (see col 20, lines 10-30);

(d) obtaining the Web site browser personal information (see col 17, lines 1-20);

(e) capturing the Web site user experience (see col 16, lines 1-15);

(f) detecting the departure of the Web site user from the Web site (see col 16, lines 1-15; col 20, lines 10-30);

(g) generating a contact report (see col 20, lines 10-30);

Angles fails to teach:

b) training the new member through the marketing service where the training progress is tracked by the up-line team member(s);

(h) notifying the new member of a business contact by receiving a contact report;

(i) accessing a data managing program to retrieve or input data;

- (j) monitoring the contact report and activity of the new member; and
- (k) using the information by the service members.

However, Kolke teaches a system that creates a referral community where the kinds of potential customers of the particular initial referral partner are entered in a referral database by listing a demographic profile of desirables referrals and where the demographic profile contains various categories useful for describing the kinds of potential customers that are desirable referrals for the initial partner (see Kolke paragraphs 6 and 43). Kolke also teaches that identifies partners for whom further training is needed, and to identify consistently unproductive referral partner who may need to be replaced (see paragraph 52). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Angles would be motivated to use the Kolke's referral system in order that registered members of an advertiser's provider send referral's emails to potential members of said advertiser's provider in view that said potential members would much rather purchase goods and services from registered members who they already know and trust.

Claim 7, Angles teaches:

A method as claimed in claim 6 where said bringing business comprises inviting traffic based on purchased leads given or sold to said marketing network service and inviting traffic through promotion of the Web site through, newspapers, flyers, Web advertisements and Web links (see col 19, lines 15-20; col 20, lines 10-30).

Claim 8, Angles teaches:

A method as claimed in claim 6 where said obtaining comprises the Web site browser signing a guest book with personal information (see col 3, lines 19-30).

Claim 9, Angles teaches:

A method as claimed in claim 8 where said personal information comprises the Web site user's name, e-mail address, correspondence address and telephone number (see col 3, lines 19-30).

Claim 10, Angles teaches:

A method as claimed in claim 6 where said Web site user experience comprises the length of time the user visited the site, what site pages were viewed and the length of time each page was viewed (see col 16, lines 1-10; col 20, lines 1-17).

Claim 11, Angles teaches:

A method as claimed in claim 6 where said generating a contact report comprises a neuro dynamic profile and identified interests of the Web site user (see col 20, lines 10-30).

Claim 12, Angles teaches:

A method as claimed in claim 11 where said neuro dynamic profile and said interests are derived from said personal information and said Web site user experience (see col 16, lines 1-15; col 20, lines 1-30).

Claim 13, Angles teaches:

A method as claimed in claim 11 where said neuro dynamic profile is characterized to by personality type, communication style, motivation strategy and decision strategy (see col 16, lines 1-15; col 20, lines 1-30).

Claim 14, Angles fails to teach:

A method as claimed in claim 6 where said notifying is characterized by communication through e-mail, posted mail and telephone. However, Kolke teaches a system that creates a referral community where the kinds of potential customers of the particular initial referral partner are entered in a referral database by listing a demographic profile of desirables referrals and where the demographic profile contains various categories useful for describing the kinds of potential customers that are desirable referrals for the initial partner (see Kolke paragraphs 6 and 43). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Angles would be motivated to use the Kolke's referral system in order that registered members of an advertiser's provider send referral's emails to potential members of said advertiser's provider in view that said potential members would much rather purchase goods and services from registered members who they already know and trust.

Claim 15, Angles fails to teach:

A method as claimed in claim 6 where said monitoring further comprises monitoring by the up-line team members) to determine the activity status of the down-line member, motivate the down-line member and to determine to collaborate with the down-line member regarding a contact report. However, Kolke teaches a system that creates a referral community where the kinds of potential customers of the particular initial referral partner are entered in a referral database by listing a demographic profile of desirables referrals and where the demographic profile contains various categories

Art Unit: 3622

useful for describing the kinds of potential customers that are desirable referrals for the initial partner (see Kolke paragraphs 6 and 43). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Angles would be motivated to use the Kolke's referral system in order that registered members of an advertiser's provider send referral's emails to potential members of said advertiser's provider in view that said potential members would much rather purchase goods and services from registered members who they already know and trust.

Claim 16, Angles teaches:

A method as claimed in claim 6 where said using the information by the service members comprises evaluation of the contact report by the team members to form a guest response that is psychologically effective to encourage sales (see col 20, lines 10-30).

Claim 17, Angles teaches:

A method as claimed in claim 6 where said using further comprises providing information to the Web site user, transacting a sale of goods and/ or services with the Web site user and accepting subscription of the Web site user to the marketing network service (see col 17, lines 5-20).

Claim 18, Angles fails to teach:

A method as claimed in claim 6 where said communicatively linked and said monitoring and said tracked comprises a flow of business information between the down-line member and the appropriate up-line team member(s) is facilitated by the

Teamwork Communication System. However, the same rejection applied to claim 15 regarding this missing down-line or up-line limitation is also applied to claim 18.

Claim 19, Angles teaches:


A method as claimed in claim 6 where said data management program is the Contact Manager program governed by the marketing network service (see col 14, lines 15-45).


Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Daniel Lastra
March 13, 2007


RAQUEL ALVAREZ
PRIMARY EXAMINER